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Supreme Court, U.S.
FILED

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No.

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1997

KERRY D. FRITZ II - PETITIONER

V.

Bond, et al. - RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

U.S. COURT OF APPEALS FOR THE THIRD CIRCUIT

PETITION FOR WRIT OF CERTIORARI

KERRY D. FRITZ II

P.O.B. # 503

LANCASTER, PA. 17608

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78 pp

QUESTIONS PRESENTED

1) Whether an 80 percent success-rate was increased to 100 percent after depositions and then effectively reduced to 1 percent by a series of adding to the stigma which even Ms. Bond [f]actually did not go so far as to impute?

2) Whether the Court should retain jurisdiction and reverse and remand in light of the overlapping/'mixed questions of law [and fact]' in light of the need to correct the facts in the posture of the Complaint/case-sub-judice, and thus the questions presented herein may be answered by the District Court in light of not following the letter and spirit of the Civil Justice Expense and Delay Reduction Plan - Chapter I § 1:02 (e); § 1:03 (b)'s non-filing; § 1:05 (e), Chapter II § 2:03

(b) (2); Chapter III §§ 3:01 (5), (7) & 3:02; Chapter VII referring to Appendix III - VI n. 36 & p. 54 last ¶ in pari materia p. 55 n. 38 ¶ referred-to & p. 56 at 'c.'; and Id. - VII last ¶ in pari materia the Plaintiff's allegations, to the 3rd Cir. C.A. Panel of 'mismanagement' by the District Court and the overlapping of issues and parties and/or 'mixed questions of law and fact' subsumed herein?

3) Has the Plaintiff-appellant shown in the other questions and sections of the Petition for Writ for Certiorari herein according to well-established principles and law that the mere 'operation of [that] law' should allow the Court to conscionably be able to reverse and remand to the District Court when the King/Courts-below have been 'induced to do an injustice' according to Marbury v. Madison and United States v. Lee in pari materia the

disregarded evidence, docket entry # 74, and FRAP 28 (j) filing?

4) Did the District Court allow the opposing attorneys to violate E.D.Pa. Local Rule # 21 (c) (2) last sentence?

5) Did 'identification' entail presumption of the acquiescence to the unknown allegations?

6) Whether the case sub-judice was filed by the Plaintiff with natural inferences from the 'solely impeachment evidence' referenced-to in Fed.R.Civ.P. # 26 as to any attempted defense in pari materia the actual issues of the theories of liability and recovery by an individual unaffected by the habeus corpus statute spoken of in Heck v. Humphrey?

7) Whether implicit admissions were made as to the theories of liability and

recovery spoken of in Burns v. Reed and Hafer v. Melo against the two Assistant District Attorney's Office personnel involved and in conjunction with docket entry # 99 and docket entries/Fed.R.Civ.P. # 15 (c), (d) motions in the [withdrawn as moot] early responses to attorney Margolis' 12 (b) (6) and 12 (e) motions and in the nature of the Pa. criminal statute the Plaintiff-appellant was 'unaffected by the habeus corpus statute' under?

8) Whether the Plaintiff-appellant assists the Court in avoiding Constitutional questions by drawing parallels to Fed.R.Civ.P. #'s 56, 11, 26, 30, 33, 37, & 36 & 60?

9) Whether the Plaintiff states a claim under Carey v. Piphus at docket entry # 69 exhibit # 16?

10) Whether Conley Count # 9 and supervisor similar Counts forgotten to be ruled-on by the District Court concerning 9th, 4th, 1st & 14th Amendment parallels, or at least as a rule of construction for the Complaint?

11) Does intentional or incompetent non-action state a claim for relief in the posture of M.P.C. 250.2/250.4 and the statute the Plaintiff-appellant's faculties were 'seized' under 'as applied' or, in other words - Whether the evidence of the District Court and Appellees attorney evidences that no 'authority' was used 'on behalf of the [alleged] speaker', and its implications at trial or what they could reasonably have known?

12) Whether a Bivens-type action was given to the Plaintiff as a result of the 'warning' given to the Third Circuit Judge

responsible for training, supervision and control as well as taking Complaints against the actions complained of in the questions presented and the other sections and the good-faith evidence's showing?

13) Whether the state-tort starting points' elements and threshhold issues should have been addressed in order to ascertain whether the respective individuals were 'plainly incompetent' or 'violated' well-established law under Wood v. Strickland and Harlowe in light of history and their respective professions, and the particular statute being questioned?

14) Whether FRAP 28 (j) filing provides the appropriate 'starting points' for standards of review of 'reasonableness', 'arbitrariness', 'willful disregard', and 'incompetence' in pari materia the issues

in the questions presented, 'balancing tests', appellees' deposition-testimony against their own interests to show police report # 94-0176 was incomplete or misleading, credibility issues determination, but also as to the 'philosophical' and 'social' issues (of I.O.P. # 7 & 9 and Fed.R.Civ.P. # 26) presented in light of that FRAP 28 (j) 'filing' being 'appropriate to the nature of the case'?

15) Whether the 'official capacity' found in docket entry # 99 should have been applied retroactively as well to the 'policy, custom, or usages' Counts as to Lancaster County actor Assistant District Attorney Stedman as well as one of the County (district) Judges (Eckert) in pari materia the particular statute involved and the actual issues disregarded in the District Court level?

16) Does attorneys DeGarcia & Melnick acquiesce during depositions of the case going to trial by arguing/not understanding 'relevance', and 'directing deponents not to answer' in pari materia Fed.R.Civ.P. # 30 (d) (1993 Amendt.)?

17) Whether the Courts-below disregard of all the 'Franks probable cause affidavit correction test' evidence of appendices and contents of docket entries motions #'d 69, 81, 89, 100/101, 102, 107, 113 and/or interpretation thereof according to 'schools of thought' and 'well-established' case-law?

18) Whether Christine J. Grandinetti's discretion was abused, or, in the alternative, whether her duty was mandatory, as a 3rd Circuit Court of Appeals 'staff attorney'?

19) Whether, if Christine J. Grandinetti was acting in her 'official capacity' for the Court of Appeals for the Third Circuit in asking the Plaintiff-appellant for the 'elucidation' 'how' that FRAP 28 (j) 'filing' was 'relevant' in the case sub-judice, the 3d Cir. C.A. thereafter did not take into account those relevant factors?

20) Whether, in either respect, and since the Plaintiff-appellant terms the FRAP 28 (j) filing as 'schools of thought' to counter, but not argue other than to point-out the Latin terms for consideration of the letter (to be able to elucidate the merits), and simple citation of the deposition-testimony of 'state actor' and dual-role 'pastor' Robert Sayre - can that FRAP 28 (j) filing be not considered in light of Constitutional and/or 'Ecclesiastical Court' history and

predictable standards of care, incorporating well-established law, in the nature of a 42 U.S.C. § 1983 and 28 U.S.C. §§ 1331 and 1343 case's posture and the other questions/principles presented herein for certiorari?

21) Whether the Carey v. Piphus evidences state tort analogues of 'intentional infliction of emotional distress' as well as presumptions in the civil context of 'ex post facto' parallels and 'impermissible presumptions' at the investigative level as well as in pari materia Commonwealth v. Zamias, Jencks v. United States, & ABA standards to have been able to reduce shock or surprise at summary-criminal case 4/15/94 trial?

22) Whether the Plaintiff-appellant was 'denied potentially favorable information' when the E.D.Pa. Court disregarded at least

'official capacity' early in the case as to the County actors but at docket entry # 99 makes explicit the Plaintiff's pleading 'official' and 'individual capacities'?

23) Whether a pro-se litigant was ever not allowed to amend the Complaint?

24) Whether the Plaintiff-appellant can or cannot [Fed.R.Civ.P. # 15] 'conform to' the evidence when the Court-below disregarded the Plaintiff's 'early' motion for sanctions thought by the construction of Fed.R.Civ.P. # 37, to be ruled-on 'after trial'?

25) Whether the Plaintiff states a claim under Heck v. Humphrey in pari materia Dellums v. Powell's primary and secondary interest; the former unaffected by the habeus statute and the latter evidenced, in part, at doc. ent. # 69 at exhibit # 19?

26) Does attorney Melnick argue for trial by 'directing deponent not to answer' and in not being familiar with the nature of the case and well-established law or the position of Reverend Sayre with respect to the Plaintiff-appellant?

27) Whether there are states-of-mind of Bond and/or circumstances or otherwise material factual differences between Bond's oral and written statements which were added rather than algebraically negated by the Millersville University defendants?

28) Whether co-counsel for remaining defendants DeGarcia's doc. ent. # 70/71 were misleading and/or were conclusory and beyond (and/or) merely an 'operation bootstrap' attempt?

29) Whether defense-counsel's argument represents that which was rejected in

Scheuer v. Rhodes and, merely 'begs the question' as to if the predictable standards of care were followed, and 'how far below' they fell, the 'warnings' and/or veiled warnings, and if the Plaintiff-appellant can make out all the elements 'upon cross-examination of the opposing witnesses' in pari materia well-established law and the contents of the FRAP 28 (j) resources?

30) Whether the Plaintiff-appellant can make-out all the elements of a sanctions motions-denial reversal request upon cross-examination of the opposing counsel(s), or E.D.Pa. District Court Rendell and Huyett, J.J.?

31) Whether DeGarcia and Filipi do not argue that they did not have the police report and the girl's circumstancial and state of mind and/or 'exculpatory'

evidence/materially and contradictory statements prior to their answering the Plaintiff's Complaint?

32) Whether the District Court admits in docket entry # 99 that Fritz 'refused' to make a (written) statement, but thereafter makes a mockery out of Kolender v. Lawson in pari materia the case sub-judice's application of 'reliable' and 'credible' in pari materia Illinois v. Gates and United States v. Leon and in pari materia the deposition-testimony elicited from the Sgt. as to the Plaintiff's 'not knowing' what [the young lady] had said to give the officer 'reason' to approach, much less thereafter arrest the Plaintiff and in pari materia 'no corroboration' as distinguished from defense-counsel's assertion of 'corroborated as much as they possibly could', and/or was the latter adopted by the E.D.Pa. against Fed.R.Civ.P. #'s 11,

12, and 56 admonitions?

33) Whether the validity of the probable cause depended upon the continuing soundness or unsoundness of the testimony in conjunction with the Wells observation of 'having been many years at the bench and bar'?

34) Whether Bond and Sayre 'induced' the officials to act parallels 'subjected to' within 42 U.S.C. § 1983?

35) Whether Thomson, Conley and Silcox 'subjected' the Plaintiff-appellant 'to' County policy-failures in pari materia 'ex post facto' and 'commingling' criteria?

36) Whether this case represents a 'balancing test' between the Harlowe standard and the 'vice of an overbroad and vague law', as applied, in pari materia the Gramenos case used by the E.D.Pa. as

distinguished from Kolender v. Lawson and Gordon v. Degelman in the context of the actors/inactors sub-judice and the implicit Fifth Amendment violation admissions which the Plaintiff was moving the evidence towards concerning that of jury-determinability of [less than] 'suspicion, conjecture' in the Fourth amendment parallels context of [un]reasonableness, and 'symptoms-assumed-as-allegations' in the Stromberg v. California context of the 'all elements' and 'undifferentiated fear'?

37) Whether co-counsel for remaining defendants DeGarcia's discovery-disputes were conclusory and made veiled-admissions that the State did not have a 'reason' to invade the Plaintiff-appellant's mind and subsequent Franks affidavit-correction-test evidence and 'right to file a grievance' against the police officer at a time when 'no arrest . . .'?

38) Whether any evidence was presented by any party or their counsel(s) to refute the allegations of the Plaintiff that the defendants did not 'use their authority on behalf of the' [alleged] speaker/Plaintiff-appellant?

39) Whether Keane, Esq.'s continuing to not address 'official capacity' forecloses any 'County's' argument as to 'procedures' of the first trial, at least, inter alia such as defendants 'power' as to the second trial, at most, in pari materia intentional infliction and Carey v. Piphus parallels, and evidence, and checks sent to show-up for depositions during the discovery period, but disregarded?

40) Whether initial and continuing non-investigation represents 'discriminatory' 'failures to protect' where even the

Brockett v. Spokane Arcade 'healthy interest' [but conflicting feelings assumed-as-] allegations did not rise (or fall) to the level of that of Doyle v. Mt. Healthy Board of Education, nor to that of People v. Chesnick, nor to that of People v. Sharpe, or at least according to Miller v. California should have been apparent as jury-determinable as to the 'coalescing of the three elements' as to imputed 'obscenity' and the forgotten-to-be-ruled-on Counts?

41) Whether the defendant-appellees Stedman and Achey (Margolis/Berger succession of counsels) non-brief filing at the Court of Appeals level should have foreclosed the Court of Appeals' reliance/affirmance on those defendant-appellees' counsels' earlier contentions (without affidavits), incorporating whether those actors' 'individual capacity' actions

were assessed in light of the 'functions' performed in pari materia the [non]gravity of the [habeus corpus unaffected by] statute the Plaintiff's mind was 'seized' under and, in conjunction with whether 'official capacity' was adjudicated, and; whether these are 'mixed questions of law and fact' when no discovery received and those actors did not show-up during the discovery period, and checks sent precisely because they had been dismissed early in the case in pari materia should have told their attorneys that it was not a matter of that attorneys discretion or not as to whether they did or did not have to attend depositions or send, or not, discovery info.?

42) Whether co-counsel for remaining defendants DeGarcia's oppositions to sanctions motions of the Plaintiff-appellant were evasive and conclusory?

43) Does the evidence show that Fritz attempted to make a Complaint/'grievance' against the police Sgt.?

44) Whether DeGarcia/Filipi, Esq.'s for remaining defendants should have refrained from 'ad hominem attacks' pursuant to the admonitions against such within LAR 28 (b) where Mari Bond never used the terms 'harassment and stalking', and the latter specifically denied 'threat[s] or propos[als] to touch [her] against her will' during the first 4/15/94 trial, as well as admitted that the Plaintiff-appellant did not 'talk to her or approach [her] after [she] indicated' (thus, by negation, once) that she'd 'rather not talk to' the Plaintiff-appellant?

45) Was Francis Filipi present when state-actor/Reverend Robert Sayre admitted

a few times that the remote conversation was (as distinguished from the police-report p. # 5) in a 'pastoral setting' that 'at one point [he] invited' and from which he 'used no school of thought' to come to the 'conclusions' concerning the [thus imputed] 'direct evidence' which thereafter did not even amount to a crime as per the 'state's understanding of the elements, proofs, and defenses' criteria of the case sub-judice?

46) Is the case sub-judice adding a dimension to and resolving the dissents in Zinermon v. Burch and Kolender v. Lawson in pari materia Jencks, ABA Standards, Pa.R.Crim.P. # 305, Commonwealth v. Zamias, Fed.R.Evid. # 501's reverting to State Privilege, negations of present defenses in pari materia 'waiver' in an 'enumerated category' concerning 'medical malpractice' in pari materia West v. Atkins, and, Franks

probable cause affidavit correction test evidence incompetently or willfully disregarded in pari materia the propriety of oral argument at the District Court level, and merely affirmed [thus] any minor procedural deficiencies of the pro-se Plaintiff's Appeal-brief] - waived by the Court of Appeals?

47) Does opposing counsels and the District Court not understand 'personal predilections' or 'unscrupulous authority' case-law and 'relevance' in sub-judice case?

48) Did the Plaintiff-appellant point-out the above '<u>Zamias</u>' and 'well established' ipso facto 'relevance' within docket entry # 69's contents and appendices, as opposed to the allegations/mere adoptions within docket entry # 99?

49) Since the Plaintiff-appellant did not have the Jencks and Zamias statements prior to filing the Complaint, and since the County 'policy' of a criminal context statute does not allow for Jencks statements, should the 'fluid concept' admonish the E.D.Pa. that the Plaintiff-appellant be allowed to amend the Complaint to 'conform to the evidence' after trial pursuant to Fed.R.Civ.P. # 15 (b) (c) (d) in pari materia the facts being within the defendants files, and, for purposes of review, the 'implicit admissions' of issues and 'functional tests' disregarded by [presently disabled] Huyett, J.?

50) Has many rebuttal and/or motions for sanctions been ruled-on prior to earlier motions, subsuming the question of whether

the District Court can [logically] support both: a finding of jury-determinable issues as well as; summary-judgment in favor of the defendants - concerning the 'four corners doctrine' of the Complaint's theories as opposed to the [mis]constructions by defense-counsel(s) and Court(s)?

51) Does the police report show that Fritz attempted to set-up a 'round-table' discussion so that the young lady 'would not go through some of the [same] things [which] the Plaintiff had gone through in an earlier period in his life'?

52) Does the Police report at p. # 2 (good-faith inclusion herein separately-bound) evidence Conley's state of mind as to insignificance/lawful purpose of 'following' on the 13th of March 1994 by

her non-inclusion, and, simultaneously; the two-counts 'all elements' not being met in pari materia no allegation by Bond thus no foundation as to the 'following' within the [1st] citation concerning the 10th of March 1994?

53) Since Fritz vehemently denies the [ambiguously-]alleged speech or conduct, is the mere fact that 'cross-motions' for summary judgment were filed and that the case sub-judice is now at this level bring substantial due process questions as to the civil litigation's posture, presumptions, or, in pari materia standards of review concerning weight-of-the-evidence not given, presumptions not given in both criminal and civil proceedings, and 42 U.S.C. § 1988, or Fed.R.Civ.P. # 11, 36, 37, & 56, 60, etc. purposes?

54) Did DeGarcia/Thomson include the name

of an administrator not previously disclosed and did this issue create yet another fabrication as compared to Silcox deposition-testimony and police report stating no ex parte meeting, since 'no arrest'?

55) Would the Court-below and defense counsels rather 'see' or 'hear' the Plaintiff-appellant in a 'false light' left to 'fester' 'rather than perform their work in a different manner', in order to justify, for the Harlowe standards', Fed.R.Civ.P. # 11, 36, 37, 56, and 60 (b) (2) (3) (6) and across the board and/or tripartate standard of review purposes, 'empty or misleading presentations in the first instance'?

56) Is there 'overwhelming evidence' for 'ostrich instructions'?

57) Whether the District Court makes a mockery out of Edwards v. Cabrera in pari materia defendants going beyond the operation 'bootstrap' by including allegations that Mari Bond had alleged the words 'harassment', etc. and, knowledge of at least three dispositive conversations with the Chief concerning attempts to make a Complaint, no charges to be filed therefore Chief did not want to talk about it, no police report but depo.-elicited conversation concerning why the Plaintiff refused to make a statement against the girl, and later, 'who would [the Plaintiff] have to go through to' get the information in the police report/the girl's statement in pari materia depo.-admitted that he told the Plaintiff that Stedman had approved the charges (thus necessarily after the charges were filed) and in pari materia the Annotation : U.S. v. Bagely - Disclosure of

Evidence Favoring Accused and in pari materia the Franks probable-cause affidavit correction test evidence included but disregarded, against Fed.R.Civ.P. # 12 and 56, or FRAP 28 (j)'s showing of 'how' to interpret, or in the alternative, 'how' the Plaintiff will elicit in pari materia Britt v. North Carolina's 'makes other admissions' parallels to Freud's term 'round upon itself' for course of conduct and states of mind necessary for redress and/or, in pari materia Fed.R.Civ.P. # 30 (d) and 37 (a) (4) in conjunction with Id. # 26 in pari materia Id. # 33 and 36 and 37 and, conversely, Id., at # 26 (a) (3) (solely impeachment - information DeGarcia (escaped to private practice with the filing of Appellee's response) contends as irrelevant when that information unfounded the 'defenses' and had shown that the clients and [m]any of the attorneys did not

investigate well-established law in pari materia the 'fluid concept' theories of liability and recovery as to the merits?

58) Were Fritz and Bond 'like subjects' and 'love objects' to each other and/or, was Fritz ever 'meaningfully' allowed to prove the negative of Bond's or, the citations' allegations, in the 4/15/94 criminal trial?

59) Does police report at p. # 2's admission that 'no arrest will be made . . .' reflect the Sgt.'s state of mind as to that officer not thinking that a crime was committed or about to be committed, but rather a 'warning and/or verbal lashing' to the Plaintiff-appellant?

60) Does Conley's various statement(s) at the 4/15/94 trial reflect both perjury and evidence of 'not objectionably reasonable

conduct' and; Sixth Amendment's two-clauses' issues in conjunction with Bond's oral and written statements and the police report p. 2's rendition of the 'accusatory stop', as well as; evidence discriminatory/retaliatory [non-] action after a Complaint against that Sgt. or the girl was attempted to be filed?

61) Does Kenyatta v. Moore and the disregarded evidence sub-judice admonish that the defendant-appellees 'knew' that Fritz would be sincere and intense in pari materia two of the missing conversation(s) in the police report elicited in deposition concerning 'wanted to make a Complaint against the Sgt.' rather than make a embarrassing written statement simultaneously putting the girl down in pari materia 'would do what he would have to do to protect himself if charges [were to be] filed' and; in pari materia the

requested statements not allowed until this action, and were all of these which were depo. elicited from the Chief but not in the M.U. Incident Report # 94-0176?

62) Did the Millersville University officials allow the priest/penitent abuser Sayre and the Sgt. 'unbridled discretion' by allowing a purported 'sexual harassment' filing under the guise of a 'no exigent circumstances' minor criminal 'harassment' statute?

63) Did all Courts-below not allow Fritz to prove 'consent' up until Ms. Bond stated that '[she]'d rather not talk' to the Plaintiff-appellant, nor 'why' Ms. Bond returned in pari materia FRAP 28 (j)'s citations'/'schools of thought' filing?

64) Does the Court(s)-below make an argument for euthanasia for all prior

nervous break-down sufferers in pari materia 'credibility issues' not given weight inter alia disregarded Fed.R.Evid.?

65) Did defense co-counsel Filipi know that the Plaintiff-appellant would not be able to make a 10:00 a.m. deposition in Harrisburg, Pa. and/or that evidence was 'solely impeachment' in pari materia protection order sought and; did DeGarcia ask for 'bloated fee requests' both here and when she herself asked the Court-below to cancel the other depositions?

66) Could the Plaintiff and Ms. Bond have [logically] had a 10-15 second conversation as Ms. Bond [stated] she 'was walking very rapidly out', between two sets of doors 7 to 8 feet apart from each other?

67) Did DeGarcia elicit an avenue of implausibility in deposition of the

Plaintiff as to state-actor defense 'could have known' concerning impossible for Plaintiff-appellant to see through Ms. Bond's coat, and perforce, shirt?

68) Was the protective order from deposing the Plaintiff made to ensure that DeGarcia did not ask irrelevant and solely impeachment questions and/or for priority of discovery due to the secretive nature of the former state action?

69) Since DeGarcia and the District Court admit that 'whether the witness was right or not is irrelevant', does this evidence that DeGarcia's questions were designed merely to harass the Plaintiff-appellant?

70) Can the Complaint be construed on the withdrawn and/or denied as moot motions, all made within the relevant Fed.R.Civ.P. rebuttal/response time periods?

71) Does the District Court and the Third Circuit Court of Appeals know or should know that the Plaintiff-appellant cannot address all of the contentions within 40 pages, and if so, what implications does this have with respect to FRAP 46?

72) Have the defendants and their counsel and the District Court's 'sexual advances' in pari materia the percentage of cases this Court takes, made the Plaintiff-appellant presently and as a result of - 'fear for' [his] 'personal safety'?

73) Does the fact that the Plaintiff-appellant is here before trial evidence that the Third Circuit has not followed its own rules of procedure and; does this parallel the context of Lancaster County policy of 'ex post facto' procedures and 'relevance' disregard?

74) Is the Plaintiff-appellant's First and Fourteenth Amendment conjunctions based-on failures to take a Complaint against the police Sgt., and vagueness and; overbreadth of the particular statute, rather than DeGarcia's [mis]characterizations?

75) Did Sayre and Bond start a 'holy war' for different reasons, but emanating from the same state of mind categorical implications?

76) Is Sgt. Conley's sexual preferences relevant in pari materia Fed.R.Evid.'s various showings, or at least intent, motivation, opportunity, or 'personal predilections'?

77) Is the Petitioner's discrimination claims based-on Constitutional principles rather than, or in combination with, anti-

discrimination laws?

78) Was docket entry # 20 ever ruled-on?

79) Is it a 'loathsome message' to refuse to make a statement after the right to 'file a grievance' was chilled?

80) After the Franks and Quinn tests, does the actions show the Plaintiff attempted to be married rather than be a model as originally planned between semesters and/or after graduating from Millersville University to raise money for charity while contemplating law school, since Sayre never told the Plaintiff-appellant during his advisorship of the Plaintiff that since the Plaintiff had had nervous breakdowns that he probably would not be accepted as a Peace Corps volunteer?

81) Does the 'stigma' and financial damages preclude the Plaintiff from

becoming either of that which is alluded-to in question #'s 80 and until the matter resolved in favor of the Plaintiff-appellant?

82) Is the property interest in educational benefits temporarily denied or the liberty interest in reputation, which is also implicated, so insubstantial that 'trespass restrictions' may constitutionally be imposed upon a person on a leave of absence by 'any procedure' the school officials, defense counsel(s), and the E.D.Pa. chooses?

83) Would the Plaintiff-appellant's 'lost credit-rating' between the two 4/15/94 and 10/24/94 criminal trials preclude the Plaintiff from contributing to society, as well as preclude the Plaintiff from meaningfully being able to support a family for a period of at least 7 years or more

from the point at which he could have otherwise been in a period of [initial] seven years?

84) Does the E.D.Pa. confound the concepts of 'fallacy of false cause' and 'probable cause'?

85) Should have Lo-Ji Sales, Inc., Gertz v. Welch, Brown v. Texas and United States v. Leon instructed the E.D.Pa. of parallels, in part, sub-judice?

86) Did the Sgt. allow Ms. Bond to allege speech of the Plaintiff in her written statement concerning after the 'accusatory stop' which was actually rather alleged by Ms. Bond's room-mate to the Sgt., not Bond, after the stop?

87) Does Docket entry # 69 at exhibit # 23 support Frye v. United States and negate

Docket entry # 99's various findings that 'Fritz does not dispute . . . [the alleged 'comments]'?

88) Does the FRAP 28 (j) filing and, 'Motion to Compel' delineate the requirements of 'Admissibility of Scientific Evidence'?

89) Does Lancaster County and the E.D.Pa. confound 'strict construction' and 'strict liability' based on a preacher/psychologist's priest/penitent abuser's use of 'no school of thought'?

90) Is Reverend Sayre's role in the former matter analogous to the 'bus driver' in Edwards v. Cabrera?

91) Does the State and County actors and their Counsel(s) and/or the Third Circuit tacitly suggest that the Sgt. or Lancaster

County may use 'kinestethic interview techniques' and yet forbid a member of the public to do the same in his daily 'affairs'?

92) Is there any reason to think that the Plaintiff/Petitioner knew the 'terms of art' which the State Actor Reverend Sayre alleged the Plaintiff/Petitioner used?

93) Can the Rev./state actor Sayre's allegations of 'needs help in some form' be construed simultaneously as to the question of: needing to know what was actually alleged and/or; someone do an investigation into the circumstancial veracity or not, and/or; have the various and exculpating statements at trial to be able to defend?

94) Is it more likely than not that the Petitioner will have 'problems relating to women' by the State actor Reverend Sayre's

giving the Plaintiff a 'problem (to solve), relating to' one particular woman?

95) Should the Court use the false-to-fact and/or false-to-issue findings as evidence of Fed.R.Civ.P. # 60 (b) (2), (3) 'pleonastic[ity]'?

96) Did the E.D.Pa. disregard Fed.R.Civ.P. # 16 (a), (b) (1), and (c) (12) (13) & (14), and; do these Fed.R.Civ.P. parallel question presented # 2?

97) Did the State and County actors attempt to construe Ms. Bond's state of mind and then not allow the Petitioner that which shows with particularity the opposite?

98) Does it appear that Chief Silcox provided discriminatory aid to a religious officer w/out qualification or

quantification as to 'schools of thought' used?

99) Is the turning a blind eye to bad history a return to a breakdown of the wall of that bad history?

100) Did the State and County actors disregard the truth to reach a predetermined result?

101) Was Rev. Sayre acting out of religious motivation and slipped onto Freudian truth?

102) When 'terms of art' have developed meaning (under Gramenos), may they control, and is the FRAP 28 (j) filing and 'elucidation' asked-for by the Third Circuit therefore appropriate to the nature of the case?

103) In light of the 10/24/94 nolle prosse

and 'cross' summary judgment [Carey v. Piphus] Appendix # 16, and financial damages Appendix # 19, can the Court-below's refusal to allow oral argument be considered 'purposeless restraints'?

104) Under the Carey v. Piphus evidence at 'cross' summary judgment motions, can it be presumed that the Petitioner will die if he can't live free of the stigma?

105) Is the Petitioner asking this Court to once again draw the 'fine lines' and 'grey areas' of Burns v. Reed and Monell and its progeny, inter alia such as Farmer v. Brennan, sub-judice, for the 3d Cir.?

106) Can the Petitioner show that it was the overbroad and vague set of actors who wrote the script of that which later occurred, this action?

107) In conjunction with the [docket entry # 74's] propriety, at least, of 'cross'-motions for summary judgment being argued orally to point-out to the District Court that which would not have been able to [evasion of issues] 'turn a blind eye' to in pari materia the jury-determinable and 'threshold' evidence disregarded-below, supported by the good-faith evidence's inclusion?

108) Whether all parties implicitly or tacitly name the respective 'experts' for trial but 'merely dispute the probatable content of' future testimony?

109) Whether an opposing attorney can mislead the Court into making a 'lottery' out of the Plaintiff-appellant's 'rights' under Blackstone's rendition of Marbury v. Madison's 'mere operation of law' for restoration of goods, lands, and chattels?

110) Would a trial on the merits merely identify 'who should pay' according to Familias Unidas v. Briscoe?

111) Was it ever the Plaintiff's intention to argue with the Third Circuit as to its own 'well-established law' in C.A. 3rd Cir. # 96-1997?

112) Did DeGarcia's opt[o]m[y]stic allusions as to the plaintiff's guilt or, conversely, thus far 'moving in only one direction', require that counsel, in order to win for her clients, to produce a 'confused, distorted picture' and obviously; did the Court-below subscribe to it so much so that it merely goes to materiality and prejudice at this point?

113) In contrast to question presented # 112, did the Plaintiff-appellant think that the matter between he and Bond were moot

and therefore did not think that the matter was of public importance until the Sgt.'s intrusive conduct and attitude's natural inferences as to what Bond most likely would have had to have done to even have gotten the Sgt. to approach Fritz?

114) At the 4/15/94 trial, does Ms. Bond's description of what she was wearing more appropriately 'characterize' the pejorative characterizations defense-counsel for 'Commonwealth employees' so adeptly makes use of against the Petitioner and, did the Petitioner include a picture of himself within Doc. ent. # 69's Appendix # 4 as Exhibit, to rebut those characterizations?

115) Paraphrasing National Association of Radiation Survivors v. Turnage, 'after [over two and one-half] years 'should' DeGarcia/Filipi/Berger line of counsel(s) [reasonably] 'know what the issues are', in

pari materia the good-faith evidence's showings, and, for sanctions purposes?

116) Did all State and County actors want to know what the Petitioner 'did' rather than investigate any prevarication of Bond, and; did they 'compel' the Petitioner to come-up with something untrue?

117) Does the record show that if Petitioner would have been a student rather than on a leave of absence, that Sayre and Silcox would have attempted to 'commit' the Petitioner based on Sayre's 'rumor' without giving Silcox the exculpatory information, and/or, without investigation, but merely assumptions based-on identification and untested evidence?

118) Whether, as distinguished from the State and County actors; did Ms. Bond ever write or orally state 'unwanted' and/or

'sexual advance' and/or 'followed' twice?

119) Did DeGarcia not distinguish between Sayre's 'thus, . . ., within the police report, and [later] depo.-elicited 'we were standing . . .', and, its dispositiveness on reliability and credibility of Sayre?

120) Did Reighard, Sayre, and Thomson's 'not remembering' show insignificance as crime and, the not telling the Chief as simultaneity of not giving exculpatory information?

121) Did the State and County actors place the burden of proof on the Plaintiff to negative some of the elements of the statute unaffected by the habeus corpus statute under and/or, the truth of the Plaintiff as former defendant's 'compelled' testimony and/or; depended upon making use

of the various sets of statements under Curran v. Delaware, or Jenks?

122) Did the Lancaster County/State Court want to hear: 'whether '[the Plaintiff-appellant]'s right she's right the court's right or anybody else is right'?

123) Did the 10/24/94 last trial show a denial of a 'power'?

124) Whether Ms. Bond felt 'elated' compared to Sgt. Conley's [mis]characterizations and in pari materia Fritz' (Freudian-slip) as to the word 'them', and in pari materia the evidence at Docket entry # 69 and FRAP 28 (j) further negating 'fear', as well as negating 'offensive touching' during the 4/15/94 summary criminal trial, and its implications as to 'statewide application' of the particular statute?

125) If the Respondent's attorneys and/or State and County actors/inactors would have done even a modicum of investigation and/or, used even one 'school of thought', could have they seen Ms. Bond (and themselves) as acknowledging the Petitioner as a Private Attorney General who would 'move his seat closer to' that of which Ms. Bond was placed by him, if charges were to be filed?

126) Did Ms. Bond negative half of her prevarication and any alleged criminality of the Petitioner during cross-examination at the 4/15/94 trial and deposition and, what implication does that have on Lancaster County policy, custom, or usage?

127) Did the Sgt. at the 4/15/94 trial as well as in deposition, not know the fundamental building blocks of logic?

128) When Commonwealth employees co-counsel found-out that the M.U.Incident Report # 94-0176 was different from the testimony of Sayre, should have Filipi started to make reasonable admissions under Pa.C.S.A. Title 42 § 8522 (b) (2) and/or Id., §§ 8545, 8550 and/or Id., §§ 5943, 5944, 8528 and/or; Does West v. Atkins, 101 L.Ed.2d 992 and Fed.R.Evid. # 501 'marry' the Plaintiff's 10th and 9th Amendment rights to the 7th (and 8th), 1st, inter alia Amendment rights?

129) Did the Pa. Legislature intend a result that is absurd and/or in deriliction of the truth or; did Lancaster County and the State actors disregard well-established construction, burdens of proof, and means to test?

130) Does the Pa. Commonwealth Attorney's Act preclude inquiry into the conduct of

the litigation tantamount to perjury and disregarding the issues of the Complaint, with thus far impunity?

131) Similar to question # 130 & 135, did counsels intentionally misquote Ms. Bond?

132) Did the E.D.Pa. not look at the evidence the Petitioner entered, whether fact or theory?

133) Did Ms. Bond quote herself and/or admitted of feelings when writing or saying 'in' and/or 'to the effect', rather than any speech or conduct of Petitioner?

134) Did the E.D.Pa. misconstrue some of the Plaintiff's motions, especially Rule 11 (c) (b) (1), and Fed.R.Civ.P. # 50?

135) Did the Sgt. intentionally misquote Bond during the 4/15/94 trial to 'button-up', and did this differ from the report?

136) Did the County and State actors know Ms. Bond's father was asking them to lie for greater charges to be filed?

137) Are the Bates and Bareme cases w/in Butz v. Economu parallel?

138) Did all counsels not address the issues or otherwise mislead the Court(s)-below?

139) Can comparing App. C. p. # 186 through 188 to page # 185 help resolve the question(s) above?

140) Should the case be assigned to the same judge(s) as most familiar to the contents of the defendants' writings and in light of its own conscious parallelisms?

141) Should all involved stay out of the 'relevancy' determinations under Jenks and Zamias rationales and the case's posture?

142) In the alternative, may this Court provide review of the case sub-judice to show that other and less 'detailed' questions than presented here would not have to be addressed 'but for' the E.D.Pa.'s (and 3rd. Cir. C.A.'s) non-application of the FRAP 28 (j)'s contents' and Constitutional principles with actual theories of liability and redress/recovery rather than the [mis]construction or; more detailed questions need to be answered by the District Court?

143) In the alternative, may this Court under Supreme Court Rule # 16 (1) grant a 'summary disposition on the merits' in favor of Petitioner, and remand for a damages trial, as necessarily traversing the same ground, for punitive damages?

LIST OF PARTIES

[X] All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows.

1) Mari Bond (address unknown - cannot be served)

2) Wayne Silcox - Millersville University Chief of Police

3) Teresa Conley - Millersville University Police Sgt.

4) Edward Thomson - Millersville University Administrator in charge of taking Complaints against University Officials

5) Leo Eckert - Lancaster County Judicial - 'official capacity' disregarded

6) Craig Stedman - 'official capacity' disregarded & Burns v. Reed 'advice'

7) Charles Achey Jr. - 'official capacity' disregarded & above 'investigatory'

8) Michael Perezous - 'official capacity' disregarded - state-law 'power'

From Motion to Add Parties dated 11/22/95 - Ruled-on 7/1/96 (see ¶ 86)

9) Rev./State Actor Sayre - Fed.R.Evid. # 501 & Pa.C.S.A. §§ 5943, 5944 and failure to give exculpatory evidence

10) Dr. Gary Reighard - 'tacit authorization' - M.U. Police Department Supervisor - failure to give exculp. info.

11) Lt. Pletcher - failure to train, control, supervise Sgt. Conley

12) Lancaster County Professional Liability Insurer - conduct in the litigation

13) United Ministries in Higher Education - failure - control, train, employee/State actor Rev. Sayre

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Miscellaneous Relevant Starting-Point Concepts

Fritz: Mk. 6:11; Lk. 9:5; Lk. 10:11; Acts 13:51 Oath Doc.

Bond: Backwards flow of the Libido, in pari materia above, and; 4/15/94 trial testimony included at App. B, p. 90 lns. 289 (meant), 295 (affect/effect) & 301 to 304 (feelings). w/in FRAP 28 (j) filing.

OPINIONS BELOW

The opinions of the E.D.Pa. and the 3rd Cir. C.A. has to the best of the petitioner's knowledge either: not been published, and; nor designated for publishing.

JURISDICTION

The date on which the United States Court of Appeals decided my case was October 1st, 1997.

All orders and dates appealed-from in the E.D.Pa. are listed at Index to the Appendices - "A" - orders appealed-from, with evidence listed as Appendices B & C, separately-bound pursuant to the rules stated at the Index of Appendices.

[X] A timely petition for rehearing was denied by the United States Court of Appeals on October 28th, 1997, and a copy of the order denying rehearing appears at Appendix A p. #'s 73-75.

The jurisdiction of this Court is invoked under 28 U.S.C. § 1254 (1), inter alia such as 28 U.S.C. § 1651.

STATEMENT OF THE CASE

The Petitioner attempted to 'file a grievance' against an 'inverted' female Millersville University (M.U.) Police Department Sgt. after she approached the Petitioner in an accusatory and 'intrusive' manner and without specifying what the allegations had been in the context of the Plaintiff's not knowing what information that officer was basing her 'reasons' for giving the Petitioner a 'warning and/or verbal lashing', as the 'young lady' 'in the front of the cruiser' had already earlier that day told the Plaintiff-appellant '[she]'d rather not talk to [him]', and he didn't feel the need for anyone else to do so.

Since [M.U. Inc. Inv. Report # 94-0176, p. 2] 'no arrest will be made . .

.', the Chief of M.U. Police Dept. Wayne Silcox did not see a reason to discuss the matter, according to the subjective beliefs of the Sgt. after she spoke with both the Petitioner and Ms. Bond.

The Petitioner then called Dr. Gary Reighard, supervisor of the M.U. Police Department, who, after asking and discussing what the Petitioner had said to the girl, referred the Plaintiff to another Administrator who was in charge of taking complaints against the M.U. Police Department, Dr. Edward Thomson.

Dr. Edward Thomson, after asking, and listening to what the Petitioner had said to the girl, referred the Petitioner back to Chief Silcox if the Petitioner had a Complaint against one of the M.U. Police Dept. officers.

After calling some other offices on campus, the Petitioner then called the

Chief (Silcox) again, and he reiterated that since 'no charges', said that there was 'no reason to talk about' it.

The Petitioner then called the Lancaster Mediation Center in an effort to set-up a 'round-table discussion' concerning either and/or both: the Sgt. (Conley's) attitude, as well as; so that the girl 'would not go through some of the same things [the Plaintiff-appellant] had when he was about her age'.

The Plaintiff then called State actor Reverend Robert Sayre, who was a former academic advisor to the Plaintiff and, the campus minister, as the situation touched-on some matters discussed in a 'pastoral setting' conversation approximately four and one-half years earlier, to invite him to the round-table discussion.

A circumstancially and alleged speech and conduct inherent contradictory written statement was then taken by the M.U. Police Department from the twenty-one year old female, and assumed as true upon her signature and/or was investigated by adding things together rather than algebraically negating the logically impossible or highly implausible circumstances or otherwise's allegations.

The Chief of M.U. Police Dept. (Silcox) then had the same officer (Sgt. Conley) that the Petitioner had called to complain about, call the Plaintiff-appellant.

The Petitioner requested an apology from her (and implying also from the girl), and again, to this Sgt., Fritz stated that the girl 'would have had to have lied' for the Sgt. to have reason to approach him in the manner she did.

As well, the Petitioner stated that he 'd[id]n't even know what the girl said' to that officer.

The Sgt. wanted the Petitioner to come into the police station and make a statement of his 'version' of the events, not to tell the Petitioner what the allegations were, nor take a Complaint.

The Petitioner asked a Detective Barley at the Lancaster County District Attorney's Office if, since no charges were going to be filed, he had to make a written statement. The answer was 'no'.

The Plaintiff-appellant was then willing to drop his attempt to 'file a grievance' against the Sgt. and/or, the girl.

The Petitioner had no way of knowing that his not having a tape-recorder while in the brief conversations with the girl, and the attempt to 'file a

grievance', coupled with his then refusal to make a written statement not in the time, place, and manner in which he had proposed, 'would subject him to' the two [seizure-of-mind-] citations and 'all that [which has thus far] followed'.

In the present 42 U.S.C. §§ 1983, 1988, 28 U.S.C. §§ 1343 and 1331 complex civil litigation action the Plaintiff-appellant/Petitioner is 'an individual unaffected by the habeus corpus statute' (Heck v. Humphrey, 129 L.Ed.2d 383 (1994)) who had lost his [financial] credit-rating due to his student loans defaulting between two criminal trials held on 4/15/94 and 10/24/94 where due to the 'fraud, perjury, or mistake of law' (Id.), and/or 'ex post facto' violations as stated at Bauer v. Acheson, 106 F. Supp. 445 (1952), at 450 (4th.) parallel to the 'Inquisition' or 'witch-hunt' practices and

states of mind delineated within not a few of the 'citations' of the FRAP 28 (j) filing to the 3rd Cir. C.A., the Plaintiff also shortly after the first trial sought Outpatient Veteran's Hospital [emotional] counseling to deal with the 'festering effect' of the 'procedural scheme', and 'stigma' associated with the 'imputations'.

Between the two [4/15/94 and 10/24/94] trials the Petitioner's student loans defaulted and he is unable to enjoy common investments and/or opportunities to contribute, or; provide for a family, until seven years from date of default, at the very least, inter alia truths such as being afraid to talk to any potential marriage, etc. partners.

REASONS FOR GRANTING THE PETITION

The Petitioner feels that the discovery/relevance issues are as broad as the prior matter (and set of 'actors') against him was ridiculous, vague, and that the evidence is so strong that the defense-counsel(s) and Courts-below would necessarily have had to [mis]construe the Complaint's theories of liability and recovery and/or; intrinsicness and extrinsicness and/or; that Fed.R.Civ.P. # 56, 11, 1, 15, 16, 18, 19, 20, 24, 26, 30, 33, 36, 37, 50, 54, & 60 were intentionally or mistakenly disregarded, for the case sub-judice to be able to be at this level and in the posture of the respective Petitioner/Respondent(s) positions prior to a trial rather than after trial on the merits.

This, coupled with the fact that the Petitioner not only vehemently denies the known and unknown allegations behind and at the 4/15/94 criminal proceedings, but also avers that all elements of the Petitioners Complaint can be made-out upon cross-examination of opposing witnesses, or counsels, based upon the evidence entered thus far.

Thus, coupled with the Plaintiff-appellant's duty to preserve the issues, and in an effort to show the Court pursuant to S.Ct.R.P. # 10 that the importance of the case concerns issues not adjudicated and/or that the evidence shows of conflicting with relevant decisions of this Court, and goes beyond the facts of this particular case, the Plaintiff-appellant could only come-up with more questions to present.

Pursuant to S.Ct.R.P. #'s 29.4 (c), the evidence shows doubtfulness whether: 'that Court, pursuant to 28 U.S.C. § 2403 (b), certified to the State Attorney General the fact that the constitutionality of a statute of that State was drawn into question' pursuant to the Clerk's 'duty' under Fed.R.Civ.P. # 24, and the docket entry listed as 'issue joined' on 6/7-8/95 and mailed to the Pa. State Attorney General on 5/10/95 (by Petitioner), was or was not performed.

Since even the allegations (at the 4/15/94 trial), and evidence of negations did not rise (or fall) to the nature of that which the Pa. legislature sought to punish, this action is not only of due process (in the nature of the case), but also of immunity, and basically an overbreadth and vagueness, as well as 'rumor' challenge, after the 'right to file

a grievance' disregarded, or; of 'three (or more)-pronged typ[e]'.

And hence; the Petitioner feels that an undertaking of any one or three of these questions presented will lead, through the overlapping to any of the others, in favor of the Paintiff-appellant/Petitioner, as well as; in the interest of deterrence of disregard of the inherent nature of [wo]mankind.

It is due to the foregoing that the Petitioner respectfully requests this Court to once again show the Third Circuit, under its inherent supervisory power, the degree of care it expects that Circuit to give to male individuals 'rumored' about, as well as females, so as to not make all that both were born to be, a travesty.

Since the defense will come forward with that which has already been

proven rebuttable, but, inter alia, added together rather than algebraically subtracted, the Petitioner feels that the nature of the violations and degree of proof(s), and subsequent disregard by the actors and counsels and Third Circuit, falls within the standards of Farmer v. Brennan, 128 L.Ed.2d 811 (1994), and; the granting the requested reversals, etc. would have the desired deterrence effect.

The Petitioner also feels that the Court(s)-below disregarded Fed.R.Evid. # 501, inter alia, and signifies a return to the bad history from whence the Constitution's origins in or around the year 1250 A.D., and; while the Plaintiff-appellant did not know the 'terms of art' of the campus minister's conversation with the Chief, that person can show on cross-examination that the girl involved saw the Petitioner, as a 'private attorney general'

(see 28 U.S.C. § 1988), inter alia and; the Plaintiff certainly does not want to disappoint that girl who was previously given the power of the State.

An appeal of only those orders not adjudicated at the level of the Court of appeals is the only way to point to those responsible for the mis-, mal-, or non-administration of the Civil Expense Delay and Reduction Plan's, and Fed.R.Civ.P. # 56 (cross-motion), at least, violations, and; give the 'other rules that potentially affect the propriety of' using Gramenos v. Jewel Co., Inc., 797 F.2d 432 (1986), meaning under FRAP 28 (j), and, 'reason' for their existence in the first instance.

Respectfully Submitted, Kerry D. Fritz II

Kerry D. Fritz II, Pro-se
P.O.B. # 503 Lancaster, Pa. 17608
Ph. (717) 664-3996

APPENDIX - A

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

C.A. No. 96-1997

KERRY D. FRITZ, II

vs.

MARI BOND, ET AL.

(E.D. Pa. Civ. No. 95-cv-01409)

Present: STAPLETON, COWEN, AND LEWIS, CIRCUIT JUDGES

1. Appellant's Motion to Compel and FRAP 28(j) filing;

2. Appellant's Motions for Incorporation of the Motion to Compel, filed 418/97, Into the FRAP 28(j) Filing and to Stay the Running of the Deadline to file Appellant Reply Brief.

For the Court's information, copies of the letters from the Staff Attorney's Office referring these documents to the merits panel are attached.

(signed by)

MARISA J.G. WATSON

Supervising Staff Attorney

Listed for Disposition: AUGUST 1,1997

MJW/ms

O R D E R

The foregoing motions are denied

By the Court,

(Walter K. Stapleton - signature)

Circuit Judge

Dated: Sep 29 1997

DR/CC: KDF

JEJ-D

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA

KERRY D. FRITZ, II	:	CIVIL ACTION
PLAINTIFF	:	NO. CV-95-1409
V.	:	Docket Entry # 34

MAURI BOND, TERESA CONNELLY,:
WAYNE SILCOX, EDWARD THOMSON,:
CHARLES ACHEY, CRAIG STEDMAN,:
LEO ECKERT AND MICHAEL PEREZOUS:
DEFENDANTS:

FILE AUG 9 1995

ORDER

Huyett, J. August 4, 1995

Plaintiff seeks sanctions under Fed.R.Civ.P. 11 against Defendants Connelly, Silcox, and Thomas for what Plaintiff alleges are meritless defenses stated in Defendants' answer. The facts related to Plaintiff's claims are set forth in the Court's Memorandum dated August 1, 1995. Defendants' raise the following affirmative defenses in their answer: (1) Plaintiff fails to state a claim; (2) government officials are entitled to qualified immunity; (3) Plaintiff's state claims against Commonwealth parties are

barred by the doctrine of sovereign immunity; and (4) claims against the Defendants in their official capacity are barred by the Eleventh Amendment. Defendants Connelly, Silcox, and Thompson are all state employees represented in this action by the Pennsylvania State Attorney General's Office.

Fed.R.Civ.P. 11 "requires a reasonable inquiry into both the facts and law supporting a particular pleading." Ford Motor Co. v. Summit Motor Products, Inc., (3rd. Cir. 1991). "Generally, sanctions are prescribed 'only in the exceptional

circumstances where a claim or motion is patently unmeritorious or frivolous." Id. Plaintiff has not provided a legal or factual basis to show that Defendants'

defenses were not well grounded in fact and law or that the answer was interposed for any improper reason. Accordingly, Plaintiff's motion for sanctions is DENIED.

IT IS SO ORDERED.

(signed - Huyett, J)

Huyett, J.

ENTERED: 8/10/95

CLERK OF COURT

- 2 -

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA

KERRY D. FRITZ, II : CIVIL ACTION

Docket Entry # 37

v. : FILE AUG 14 1995

TERESA CONNELLY. et al.: NO. 95-1409

ORDER

HUYETT, J. AUGUST 9, 1995

AND NOW, it is ORDERED that plaintiff's Motion to Quash Defendant Achey's Motion to Dismiss filed May 10, 1995, in the above-captioned action is hereby marked withdrawn as moot.

ATTEST:

BY: (signed by)

Leslie F. Stott, Deputy Clerk

ENTERED: 8/15/95

CLERK OF COURT

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA

KERRY D. FRITZ. II : CIVIL ACTION

Docket Entry # 38

v. FILE AUG I 41995

TERESA CONNELLY, et al.: NO. 95-1409

ORDER

HUYETT, J. AUGUST 9, 1995

AND NOW, it is ORDERED that plaintiff's Motion to Quash Stedman's Motion to Dismiss filed May 10, 1995, in the above-captioned action is hereby marked withdrawn as moot.

ATTEST:

BY: (signed)

Leslie F. Stott, Deputy Clerk

ENTERED: 8/15/95

CLERK OF COURT

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

KERRY D. FRITZ, II : CIVIL ACTION

Docket Entry # 39

v. FILE AUG 14 1995

TERESA CONNELLY, et al. : NO. 95-1409

ORDER

HUYETT, J AUGUST 9, 1995

AND NOW, it is ORDERED that plaintiff's Motion to Quash Defendant Stedman's Motion to Dismiss filed May 19, 1995, in the above-captioned action is hereby marked withdrawn as moot.

ATTEST:

BY: ~(signature of) ~

Leslie F. Stott, Deputy Clerk

ENTERED: 8/15/95

CLERK OF COURT

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA

KERRY D. FRITZ, II : CIVIL ACTION

Docket Entry # 40

v. :

FILE AUG 14 1995

TERESA CONNELLY. et al.: NO. 95-1409

ORDER

HUYETT, J. AUGUST 9, 1995

AND NOW, it is ORDERED that plaintiff's Motion to Quash Defendant Eckert's Motion to Dismiss and for a More Definite Answer to the Complaint as Pleaded filed May 11, 1995, in the above-captioned action is hereby marked withdrawn as moot.

ATTEST:

BY: (signature of)

Leslie F. Stott, Deputy Clerk

ENTERED: 8/15/95

CLERK OF COURT

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA

KERRY D. FRITZ, II : CIVIL ACTION

Docket Entry # 41

v. :

FILE AUG 14 1995

TERESA CONNELLY, et al.: NO. 95-1409

ORDER

HUYETT, J. AUGUST 9, 1995

AND NOW, it is ORDERED that plaintiff's motion opposing Defendant Bond's Motion to Dismiss filed May 22, 1995, in the above-captioned action is hereby marked withdrawn as moot.

ATTEST:

BY: (signature of)

Leslie F. Stott, Deputy Clerk

ENTERED: 8/15/95

CLERK OF COURT

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA

KERRY D. FRITZ, II : CIVIL ACTION

Docket Entry # 42

v. FILE AUG 1 4 1995

TERESA CONNELLY, et al. : NO. 95-1409

ORDER

HUYETT,. J. AUGUST 9, 1995

AND NOW, it is ORDERED that plaintiff's Motion to Quash Defendant Perezous' Motion to Dismiss filed May 19, 1995, in the above-captioned action is hereby marked withdrawn as moot.

ATTEST:

BY: (signature of)

Leslie F. Stott, Deputy Clerk

ENTERED: 8/15/95

CLERK OF COURT

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA

KERRY D. FRITZ, II : CIVIL ACTION

FILE AUG 14 1995

v. : Docket Entry # 44

TERESA CONNELLY, et al.: NO. 95-1409

ORDER

HUYETT, J. AUGUST 9, 1995

AND NOW, it is ORDERED that plaintiff's Motion to Quash Defendant Achey's Motion to Dismiss filed May 19, 1995, in the above-captioned action is hereby marked withdrawn as moot.

ATTEST:

BY: (signature of)

Leslie F. Stott, Deputy Clerk

ENTERED: 8/15/95

CLERK OF COURT

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA

KERRY D. FRITZ, II	:	CIVIL ACTION
Plaintiff	:	Docket Entry # 58
v.	:	No. 95-1409
	:	
TERESA CONNELLY, et al.	:	FILE OCT 27 1995
Defendants	:	

ORDER

HUYETT, J. OCTOBER 25, 1995

By letter dated October 25, 1995 and submitted to the court by facsimile transmission, Plaintiff Kerry D. Fritz, II, has requested a telephone conference to discuss a dispute over depositions Plaintiff proposes to take on October 27, 1995 and November 3, 1995. A copy of Plaintiff's letter is attached to this Order. As the discovery deadline in this

action was October 10, 1995, Plaintiff's request is DENIED.

IT IS SO ORDERED.

(signature of)

Huyett, J.

ENTERED: 10/30/95

CLERK OF COURT

Kerry D. Fritz II
P.O.B. # 503
Lancaster, Pa. 17608
Ph. (717) 872-5999

Judge Huyett's Office
400 Washington St.
Reading, Pa. FAX # 1-610-320-5219

October 25th, 1995

RE: CV-95-1409 - - - Request for Telephone conference to discuss:

(1) Refusal to attend upcoming depositions on

10/27/95 and 11/3/95 by letter of two counsel.

(a) Lawrence Berger II

(b) Mary Keane

The above-named counsel for former defendants have sent letters to the plaintiff indicating they will not honor the subpoena for depositions to be taken in the case at hand.

They generally cite two reasons in their respective letters indicating why. These are that:

(1) their clients are no longer parties and;

(2) that the discovery period has expired.

Attempts to talk to the

respective attorney by telephone have been met with resistance in the form of:

(1) (a) Mary Keane will not take my phone call;

(b) instructs her secretary to tell me to put it into writing.

(2) Lawrence Berger says that his clients:

(a) weren't a witness to anything in the prior matter;

(b) that there are no parties at all in the federal action;

(c) the merits are bogus;

(d) as far as he's concerned his files are closed;

(e) to put it in writing;

(f) get a court order;

1 of 3 of Telephone Conference Concerning Non-Attendance Intention

The plaintiff contends that:

(1) their clients were named also in their official capacities for future inclusion of Lancaster County as officials high-enough-up in the local governmental structure for policy, custom, or usage considerations with respect to liability of Lancaster County as party defendant (more about this below);

(2) (a) Their clients are in control of official records about the plaintiff with respect to the prior action against plaintiff as well as;

(b) Were witnesses to certain events during same as against at least the parties defendant still in the case;

(c) Made or carried out policy decisions in the prior matter;

(3) (a) The testimony will develop the case for the Court and Jury to see that the merits aren't "bogus", according to well-established law, and;

(b) counsel for parties herein knows this and is deliberately attempting to wear-out the plaintiff's resources and patience as well as;

(c) (a) made deliberate misrepresentations and/or omissions to the Court or;

(b) may be going on only their clients' misrepresentations to their own (these) Counsel without letting the plaintiff an opportunity to disprove theirs (counsel's) or their clients' version of the facts wrong.

2 of 3 of Telephone Conference Concerning Non-Attendance Intention

(4) Discovery period has expired due to:

(a) the inaction of these and other Counsel in the present matter in sending the requested materials and/or;

(b) not showing-up to be deposed when previously scheduled;

(5) The plaintiff has put it into writing in the form of:

(a) subpoenas, as well as;

(b) writings to the Court which were deemed moot concerning personal immunity only.

(6) (a) That the Counsel should have referred their clients to counsel representing Lancaster County concerning the present action, and;

(b) records do indicate that the County insurer was actually contacted

by former Counsel for the D.A.'s office personnel, which present counsel should know (reflected in the County case file as well as certificates of service within prior writings to the Court), but is disregarding.

The plaintiff will be available all day on Thursday, October 26th, 1995 for the conference call.

Counsel for Stedman and Achey will be available after 10:00 a.m. according to phone conversation at 11:00 a.m. on this date, Wednesday October 25th, 1995.

Counsel for Eckert did not return telephone call concerning what time she would be available for the conference call. Her conference call may be held next week, however, as her client isn't to be deposed until Friday the 3rd of November.

Respectfully submitted, (signed by)

10/25/95 Kerry D. Fritz II, Pro-Se

P.O.B. # 503 Lancaster, Pa. 17608

Ph. (717) 872-5999

3 of 3 of Telephone Conference

Concerning Non-Attendance Intention

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA

KERRY D. FRITZ, II,	:	CIVIL ACTION
Plaintiff	:	Docket Entry # 61
v.	:	No. 95-1409
	:	
TERESA CONNELLY. et al.,	:	FILE NOV 13 1995
Defendants	:	

ORDER

HUYETT, J. NOVEMBER 8, 1995

Plaintiff has filed a Motion for

Protective Order.

Although the Motion is unclear, it appears Plaintiff seeks protection from discovery into facts of which he has personal knowledge because he claims these are protected by the work product privilege. He also apparently seeks protection from discovery into events which led to the arrest that underlies his 42 U.S.C. § 1983 claim on the grounds that these events are irrelevant and discovery into them is unnecessary. Because Plaintiff has failed to show good cause why a protective order should be issued, the Motion is DENIED. See Fed. R. Civ. P. 26(c).

IT IS SO ORDERED.

(signature of)

HUYETT, J.

ENTERED: 11/14/95

CLERK OF COURT

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA

KERRY D. FRITZ, II,	:	CIVIL ACTION
Plaintiff	:	Docket Entry # 62
v.	:	No. 95-1409
	:	
TERESA CONNELLY, et al.	:	FILE NOV 13 1995
Defendants	:	

ORDER

HUYETT, J. NOVEMBER 8, 1995

Upon consideration of Defendants' Motion for Sanctions and Plaintiff's two responses thereto, the Motion is GRANTED. Defendants move for sanctions because of Plaintiff's failure to answer interrogatories and deposition questions, failure to provide notice of cancellation of depositions on October 4, 1995, and failure to appear for his own deposition scheduled for September 22,

1995. The sanctions Defendants' seek are dismissal of, in the alternative, recovery of their costs and expenses in attending depositions the Plaintiff failed to attend.

The facts presented do not warrant the "drastic" sanction of dismissal. See Poulis v. State Farm Fire and Casualty Co., 747 F.2d 863, 867-68 (3d Cir. 1984). However, pursuant to Fed. R. Civ. P. 37(d), Plaintiff shall pay the Defendants' reasonable expenses, including attorney's fees, caused by his failure to appear for his deposition on September 22, 1995 after receiving proper notice. Plaintiff shall also pay reasonable expenses, including attorney's fees, incurred when Defendants' attorney attended the October 4, 1995 depositions, which Plaintiff failed to attend after providing notice that the depositions would

take place. Sanctions for failure to answer specific interrogatories or deposition questions are premature because Defendants have not moved to compel discovery under Fed. R. Civ. P. 37(a).

Defendants shall provide an affidavit of expenses and fees claimed within five (5) days of the date of this order. Plaintiff shall have five (5) days after service of the affidavit to file any response.

IT IS S0 ORDERED.

(signature of)

HUYETT, J.

ENTERED 11/14/95

CLERK OF COURT

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

KERRY D. FRITZ, II,	:	CIVIL ACTION
Plaintiff	:	Docket Entry # 63
v.	:	No. 95-1409
	:	
TERESA CONNELLY, et al.,	:	FILE NOV 14 1995
Defendants		

ORDER

HUYETT, J. NOVEMBER 9, 1995

Plaintiff Kerry D. Fritz, II, has filed a motion entitled "Plaintiff's Request for Extension of Time to Seek Opposing Parties' Concurrence on Future Motion to Reinstate Defendants and/or Amend Complaint Due to Misconstruction by Counsel and Court of Matters of Law and Fact." Despite this title, the motion appears

instead to seek reconsideration of the Court's Orders dismissing Plaintiff's Complaint with prejudice as to former Defendants Eckert, Perezous, Stedman, Achey and Bond. The Plaintiff also demands that the Court to recuse itself. As Plaintiff's rambling and disjointed motion provides no grounds for reconsideration, recusal, or extension of time, it is DENIED in its entirety.

IT IS SO ORDERED.

(signature of)

HUYETT, J.

ENTERED: 11/15/95

CLERK OF COURT

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

KERRY D. FRITZ, II, : CIVIL ACTION

Plaintiff : Docket Entry # 74

v. : No. 95-1409

:

TERESA CONNELLY, et al.,: FILE DEC 14 1993

Defendants :

ORDER

HUYETT, J. DECEMBER 12, 1995

Plaintiff Kerry D. Fritz, II, has filed a Motion for Sanctions under Fed. R. Civ. P. 37(c). Plaintiff's Motion also requests oral argument on the Motion and his Motion for Summary Judgment, and an extension of time in which to file dispositive motions.

Plaintiff's Motion and his supporting Brief fail to establish any basis for imposing sanctions. As a result, no oral argument is necessary on the issue. As to Plaintiff's request for oral argument on his Motion for Summary Judgment, the

Court will determine whether oral argument is necessary after reviewing the Motion, filed December 8, 1995, and any opposition thereto. Finally, an extension of time is unjustified and will not be approved. Accordingly, with the exception of Plaintiff's request for oral argument on his Motion for Summary Judgment, Plaintiff's Motion is DENIED.

IT IS SO ORDERED.

ENTERED: 12/14/95

(signature of)

HUYETT, J.

CLERK OF COURT

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

KERRY D. FRITZ, II, : CIVIL ACTION
Plaintiff : Docket Entry # 86
v. : No. 95-1409

:

TERESA CONNELLY, et al.,

ENTERED: 7/1/96

Defendants :

ORDER

Plaintiff Kerry D. Fritz, II, has filed a "Motion to Add Parties Pursuant to Federal Rules of Civil Procedure," which the Court will treat as a Motion to Amend the Complaint. Although leave to amend "shall be freely given when Justice so requires. Fed. R. Civ. P. 15(a), it may be denied where there has been undue delay, where allowing the amendment would unduly prejudice the opposing party, or where the proposed amendment is futile. Foman v. Davis, 371 U.S. 178, 182 (1962).

The claims against the defendants that Plaintiff wishes to add are frivolous, and thus the proposed amendment is futile.

With the exceptions of Lancaster County, Dr. Robert Sayre, Dr. Gary Reighard and Lt. Pletcher, none of the prospective defendants are state actors; therefore, Plaintiff cannot state a cause of action under 42 U.S.C. § 1983 against them for violating his constitutional rights. Doe v. William Shapiro. Esquire P.C., 852 F. Supp. 1246, 1252-53 (E.D. Pa. 1994). As to Plaintiff's invasion of privacy, false light and intentional infliction of emotional distress claims. the Court would not have subject matter

jurisdiction over these state law claims because the parties are not diverse and the claims do not arise from the same nucleus of operative fact as Plaintiff's federal claims. 28 U.S.C. § 1367; Perkins

v. City of Phila., 766 F. Supp. 313, 317 (E.D. Pa. 1991). Finally, the facts alleged in the Motion fail to state a cause of action against Lancaster County, Dr. Sayre, Dr. Reighard or Lt. Pletcher because they do not establish that any of these prospective defendants deprived Plaintiff of any constitutional right.

Along with the futility of the amendment, Plaintiff 's undue delay in seeking leave to amend weighs against allowing the proposed amendment. Although Plaintiff has long known of the operative facts in his new claims, he did not file the Motion until after the close of discovery and after Defendants' had filed their Motion for Summary Judgment.

Allowing Plaintiff to expand the litigation to include new parties and new allegations at this late date would unduly prejudice Defendants. Accordingly,

Plaintiff's Motion is DENIED.

IT IS SO ORDERED.

(signature of)

HUYETT, J.

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA

KERRY D. FRITZ, II : Civil Action

: Docket Entry # 93

v. ENTERED 9/20/96

: NO. 95-1409

MAURI BOND, et al. CLERK OF COURT

ORDER

AND NOW, this 19th day of September, 1996, upon consideration of Plaintiff's Motion to Strike Defense Counsel's Arguments and Brief, and finding that

1. A court may order stricken from any pleading any insufficient defense or any redundant, immaterial, impertinent, or scandalous matter. Fed. R. Civ. P. 12(f). Allegations may be stricken as scandalous if the matter bears no possible relation to the controversy or may cause the objecting party prejudice. Talbot v. Robert Matthews Distributing Co., 961 F.2d 654, 664 (7th Cir. 1992). Motions to strike are generally viewed with disfavor and should not be granted when the sufficiency of the defense depends upon disputed issues of fact or unclear questions of law. United States v Marisol, 725 F. Supp. 833, 836 (M.D.Pa. 1989).

2. Plaintiff's brief in support of his Motion is unclear as to which arguments and briefs of defense counsel he objects.As such, I have read his Motion as objecting to all arguments and supporting briefs thus

far filed by defense counsel in the present case.

- 1 -

3. Plaintiff's Motion and his supporting brief fail to establish any basis for striking defense counsel' s arguments and briefs. Plaintiff has presented no evidence that defense counsel's arguments and briefs are redundant, immaterial, impertinent or scandalous.

It is therefore Ordered that Plaintiff's Motion to Strike Defense Counsel's Arguments and Briefs is DENIED.

BY THE COURT:

(signature of)

MARJORIE O. RENDELL, J.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

Docket Entry # 94

KERRY D. FRITZ, II : Civil Action

: FILED SEP 19 1996

v. : ENTERED 9/20/96

MAURI BOND, et al.: No. 95-1409

ORDER

AND NOW, this 19th day of September, 1996, upon consideration of Plaintiff's Motion for Sanctions in response to Defense Counsel's Objections to Adding Parties, and finding that

1. Plaintiff's brief in support of his Motion for Sanctions argues that defense counsel is attempting to mislead the court and that the court should grant sanctions to deter such misrepresentations.

2. Rule 11 of the federal rules of Civil Procedure requires a reasonable inquiry into both the facts and law

supporting a particular pleading. Ford Motor Co. v. Summit Motor Products. Inc., 930 F.2d 277, 289 (3d Cir. 1991), cert.denied sub nom. Altron Corp. v. Ford Motor Co., 502 U.S. 939 (1991). Generally, a court will impose sanctions only in exceptional circumstances where a "claim or motion is patently unmeritorious or frivolous." Id.

3. The court will sanction an attorney if the allegations and factual contentions in a brief do not have evidentiary support. Fed R. Civ. P. 11 (b)(3). Plaintiff fails to establish that there was no evidentiary support for defense counsel's factual allegations. Rather, plaintiff argues

only that because he could interpret the facts differently, defense counsel must

have misrepresented the facts.

4. The court will sanction an attorney, if claims, defenses, and other legal contentions are not warranted by existed law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law. Fed R. Civ. P. 11 (b)(2). Plaintiff fails to establish that any legal arguments made by defense counsel warrant sanctions.

It is therefore Ordered that Plaintiff's Motion for Sanctions in Response to Defense Counsel's Objections to Adding parties is DENIED.

BY THE COURT:

(signature of)

MARJORIE O. RENDELL, J.

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA

Docket Entry # 95

KERRY D. FRITZ, II : Civil Action

:

v. ENTERED : 9/20/96

MAURI BOND, et al. : NO. 95-1409

CLERK OF COURTS

ORDER

AND NOW, this 19th day of September, 1996, upon consideration of Defendant Silcox, Connelley, and Thomson's Motion to Strike Plaintiff's Brief in Support of his Motion for Summary Judgment and the Motion to Strike the Deposition Transcript of Jean Gebhard, I hereby find that

1. A court may order stricken from any pleading any insufficient defense or any

any redundant, immaterial, impertinent, or scandalous matter. Fed. R. Civ. P. 12(f). Allegations may be stricken as scandalous if the matter bears no possible relation to the controversy or may cause the objecting party prejudice. Talbot v. Robert Matthews Distributing Co., 961 F.2d 654, 664 (7th Cir. 1992).

2. The defendants contend that the plaintiff's brief in support of his motion for summary judgment focuses on personally maligning Sergeant Connelly and is "replete with conclusory, offensive and derogatory material." Defendants also argue that the plaintiff sets forth numerous facts and allegations that involve individuals not a party to this action.

3. It is within the discretion of the district court whether to strike material as scandalous. Talbot at 664.

4. Plaintiff makes several references in his brief as to Sergeant Connelly's sexual orientation.Plaintiff does not, however, explain in what way the sexual orientation of Sergeant Connelly is relevant to the present case. As such, because plaintiff has not shown how the matter bears possible relation to the controversy and because such unsupported references may cause the defendants to be prejudiced, any and all references in Plaintiff's brief as to Sergeant Connelly's sexual orientation is stricken as scandalous.

5. Motions to strike are generally viewed with disfavor and should not be granted when the sufficiency of the defense depends upon disputed issues of fact or unclear questions of law. United States v. Marisol, 725 F. Supp. 833, 836 (M.D. Pa. 1989).

6. The defendants contend that much of Plaintiff's brief is immaterial to the present action. The plaintiff is proceeding pro se and the court acknowledges that the plaintiff may not be familiar with the particular format in which a brief in support of a summary -judgment should be filed. Accordingly, the court will act within its discretion in not striking any other part of Plaintiff's brief.

7. On August 9, 1995, Judge Huyett entered a court order that all discovery was to be completed by October 9, 1995. The deposition of Jean Gebhard was taken by the plaintiff on Friday, October 27, 1995. A party desiring to take the deposition of any person upon oral examination shall give reasonable notice in writing to every other party to the action.

Fed. R. Civ. P. 30(b)(1). This deposition was taken without notice to defense counsel. Accordingly, I will grant defendants' Motion to Strike the deposition of Jean Gebhard in that plaintiff may not make use of it at trial unless he redeposes the deponent with advance notice to defense counsel.

It is therefore Ordered that Defendants, Motion to strike the deposition of Jean Gebhard is GRANTED. Defendant's Motion to strike Plaintiff's brief in support of his Motion for Summary Judgment is GRANTED in part as referred to above, namely, all references in Plaintiff's brief as to Sergeant Connelly's sexual orientation are Ordered Stricken.

BY THE COURT:

(signature of)

MARJORIE O. RENDELL, J.

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA

Docket Entry # 97

KERRY D FRITZ II : Civil Action

ENTERED: 9/23/96

FILED SEP 20 1996

v. : NO. 95-1409

CLERK OF COURT

MAURI BOND, et al. :

ORDER

AND NOW, this 19th day of September, 1996, upon consideration of Plaintiff's Motion for Sanctions After 21-day "Safe Harbor" Period for Filing, and finding that

1. Plaintiff's brief in support of his Motion argues that the information in defendants' motions and briefs is not truthful, that defendants have not investigated their claims, and that defense counsel is attempting to mislead the court.

Plaintiff argues that the court should grant sanctions to deter such misrepresentations.

2. Rule 11 of the Federal Rules of Civil Procedure requires a reasonable inquiry into both the facts and law supporting a particular pleading. Ford Motor Co. v. Summit Motor Products, Inc., 930 F.2d 277, 289 (3d Cir. 1991), cert. denied sub nom. Altron Corp. v. Ford Motor Co., 502 U.S. 939 (1991). Generally, a court will impose sanctions only in exceptional circumstances where a "claim or motion is patently unmeritorious or

frivolous." Id.

3. The court will sanction an attorney if the allegations and factual contentions in a brief do not have evidentiary support. Fed. R. Civ. P. 11 (b)(3). Plaintiff fails

to establish that there was no evidentiary support for defense counsel's factual allegations. Rather, plaintiff argues only that because he could interpret the facts differently, defense counsel must have misrepresented the facts.

4. The court will sanction an attorney if claims, defenses, and other legal contentions are not warranted by existed law or by a nonfrivolous argument for the extension, modification' or reversal of existing law or the

establishment of new law. Fed R. Civ. P. 11 (b)(2). Plaintiff fails to establish that any legal arguments made by defense counsel warrant sanctions.

5. Plaintiff has not shown that defense counsel has committed any errors warranting sanctions. Therefore, there was no obligation for defense counsel to correct and thus, no basis for sanctions. See Fed. R. Civ. P. 11 (c)(1)(A).

It is therefore Ordered that Plaintiff's Motion for Sanctions After 21-day "Safe harbor" is DENIED.

BY THE COURT:

(signature of)

MARJORIE O . RENDELL, J

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA

Docket Entry # 98

KERRY D. FRITZ, II : Civil Action

:Filed SEP 20 1996

v. ENTERED: 9/23/96

:

MAURI BOND, et al. : NO. 95-1409

CLERK OF COURT

ORDER

AND NOW, this 19th day of September, 1996, upon consideration of Plain Argument to Point-Out Defense counsel's Misleading the Court and Unobjectionable and Irrelevant to the Complaint and Motion for Sanctions for Non-admissions'', and finding that

1. Plaintiff's brief in support of his motion argues that the information in defendants' motion and brief is not truthful, that defendants have not

investigated their claims, and that defense counsel is attempting to mislead the court. Plaintiff, relying upon Rules 11, 26, 36 and 37 of the Federal Rules of Civil Procedure, argues that the court should grant sanctions to deter such misrepresentations.

2. Rule 11 of the federal Rules of Civil Procedure requires a reasonable inquiry into both the facts and law supporting a particular pleading. Ford Motor Co. v. Summit Motor Products Inc., 930 F.2d 277, 289 (3d Cir. 1991), cert. denied sub nom . Altron Corp. v. Ford Motor Co ., 502 U.S. 939 (1991).

Generally' a court will impose sanctions only in exceptional circumstances where a "claim or motion is patently unmeritorious or frivolous." Id.

3. The court will sanction an attorney if the allegations and factual contentions in a brief do not have evidentiary support. Fed. R. Civ. P. 11 (b)(3). Plaintiff fails to establish that there was no evidentiary support for defense counsel's factual allegations. Rather, plaintiff argues only that because he could interpret the facts differently, defense counsel must have misrepresented the facts.

4. The court will sanction an attorney if claims, defenses, and other legal contentions are not warranted by existed law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law. Fed.R.Civ.P. 11(b)(2). Plaintiff fails to establish that any legal arguments made by defense counsel warrant sanctions.

5. The signing of a disclosure by an attorney constitutes a certification that to the best of the signer's knowledge, information, and belief, formed after a reasonable inquiry, the disclosure is complete and correct as of the time it is made. Fed. R. Civ. P. 26(g)(1). Plaintiff fails to establish that defense counsel's certification was made in violation of this rule.

6. "If a party fails to admit the genuineness of any document or the truth of any matter as requested under Rule 36, and if the party requesting the admissions thereafter proves the genuineness or the truth of the matter, the requesting party may apply to the court for an order requiring the other party to pay the reasonable expenses incurred in making that proof, including

attorney's fees." Fed. R. Civ. P. 37(c)(2). Plaintiff argues that defense counsel should be sanctioned for refusal to admit. Plaintiff does not establish that defense counsel failed to admit. Rather, plaintiff argues only that because he could interpret the facts differently, defense counsel must be sanctioned for refusal to admit.

7. Plaintiffs Motion and his supporting brief fail to establish any basis for imposing sanctions. As a result, no oral argument is necessary on the issue.

It is therefore Ordered that Plaintiff's Motion for Sanctions is DENIED, Plaintiff's Motion for Sanctions for Non-admissions is DENIED and Plaintiff's Motion for Oral Argument to Point-out Defense Counsel's Misleading the Court and Unobjectionable and Irrelevant to the Complaint is DENIED.

BY THE COURT:

(signature of)

MARJORIE O. RENDELL, J.

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA

Docket Entry # 117

KERRY D FRITZ, II	:	CIVIL ACTION
	:	
v.	:	
	:	
MAURI BOND, et al.	:	NO. 95-1409

ORDER

AND NOW, this 15th day of November, 1996, upon plaintiff's motion to preserve sanctions requests (formerly incorrectly titled as Plaintiff's motion for sanctions in response to defense counsel's objections to adding of parties), and in light of the fact that this case was

closed on September 30th 1996,
plaintiff's motion is DENIED as MOOT.

BY THE COURT:

(signed by)

Dated: Nov. 15, 1996 Marjorie O.
Rendell, J.

ENTERED: 11/18/96

CLERK OF COURT

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

Docket Entry # 118

KERRY D. FRITZ, II : CIVIL ACTION
:ENTERED: 11/18/96
v . :FILED NOV 15 1996
:
MAURI BOND, et al. : NO. 95-1409

ORDER

AND NOW this 15th day of

November, 1996, upon consideration of plaintiff's motion for "tolling the running to allow oral reconsideration of the summary judgment motion or in the alternative reasonable admission by defense counsel DeGarcia that the case should go to the jury or in the alternative sue sponte same by the court" and defendants' response thereto, I find the following:

1. Plaintiff has moved for reconsideration of this court's order entered on September 30, 1996, denying plaintiff's motion for summary judgment, granting defendants' motion for summary judgment as to plaintiff's federal claims.

2. Generally reconsideration must seek to correct manifest errors of fact or to present newly discovered evidence." Hartford Fire Ins. Co. v. Huls America Inc., 921 F. Supp. 278, 279 (E.D.Pa. 1995)

(internal quotation and citation omitted).

A party filing a motion to reconsider must rely on at least one of the following grounds: (1) the availability of the evidence that was not available when the court granted the motion for summary judgment; (2) an intervening change in the controlling law; or (3) the need to correct an error of law or to prevent manifest injustice

Id. (citation omitted).

3. Plaintiff's motion contains no basis for any finding that the court committed a manifest error of law or fact. Moreover, plaintiff presents no newly discovered evidence for the court's consideration.

Accordingly I find no reason to

alter or amend my prior ruling, and plaintiff's motion is DENIED.

Dated: Nov. 15, 1996

BY THE COURT

(signed by)

Marjorie O. Rendell, J.

UNITED STATES COURT OF APPEALS

FOR THE THIRD CIRCUIT

NO. 96-1997

KERRY D. FRITZ, II,

Appellant

v.

MAURI BOND; TERESA CONNELLY, WAYNE SILCOX; EDWARD THOMSON; LEO ECKERT; CRAIG STEDMAN; CHARLES ACHEY; MICHAEL PEREZOUS

SUR PETITION FOR REHEARING

BEFORE: SLOVITER, Chief Judge, BECKER, STAPLETON, MANSMANN, GREENBERG, SCIRICIA, COWEN, NYGAARD, ALITO, ROTH, LEWIS, and McKEE, Circuit Judges

The petition for rehearing filed by appellant in the above-entitled case having been submitted to the judges who participated in the decision of this Court and to all the other available circuit judges of the circuit in regular active service, and no judge who concurred in the decision having asked for rehearing, and a majority of the circuit judges of the circuit in regular active service not having voted for rehearing by the court en banc, the petition for rehearing is denied.

By the Court

(signed by) Walter K. Stapleton

Circuit Judge

Dated: OCT 28 1997

DR/CC KDF

JEJD

Relevant 'found'/'Facts Relating' per S.Ct.R.P. ¶ 14 and Docket entry ¶ 34 Appelaed-from, inter alia the Complaint (although also denoting 'inaction') and Body of Petition, and Questions Presented

. . . charged Plaintiff with harassment under 18 Pa. C.S.A. § 2709.[1] A hearing was held in front of District Justice Eckert where Plaintiff pled not guilty. However, the court found Plaintiff guilty and consequently he filed a Notice of Appeal from Summary Criminal Conviction with the Court of Common Pleas of Lancaster County. Defendant Charles Achey, was assigned to the case before Judge Michael Perezous in the Court of Common Pleas. . . . a nolle prosequi was entered by the Court.

1 "A person commits a summary offense when, with the intent to harass, annoy, or alarm another person:

(1) ((irrelevant as uncharged))

(2) he follows a person in or about a public place or places; or

(3) he engages in a course of conduct or repeatedly commits acts which alarm or seriously annoy such other person and which serve no legitimate purpose."

Constitutional Provisions, Treatises, Statutes, Ordinances, and Regulations

Constitutional Article # III., Sec. 1:

The judicial power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish. The judges, both of the supreme and inferior Courts, shall hold their Offices during good Behavior, . . .

Constitutional Article # III., Sec. 2:

[1.] The judicial Power shall extend to all Cases, in Law, and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority; - . . . to controversies between . . . Citizens of the same State . . . and between a State, or the Citizens thereof,.

[2.] . . . In all other Cases before mentioned, the supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make.

Constitutional Article # IV., Sec. 2:

[1.] The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States.

[3.] No person held to Service or Labour in one State, under the Laws thereof, escaping into another, shall, in Consequence of any Law or Regulation therein, be discharged from such Service or Labour, but shall be delivered up on Claim of the Party to whom such Service or Labour may be due.

Constitutional Article # VI., Clause 2:

the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing
in the Constitution or Laws of any State to the Contrary notwithstanding.

Constitutional Article # VI., Clause 3:

The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and all executive and Judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution; but no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States.

Constitutional Amendment # 1: Congress shall make no law respecting an establishment of religion, . . .

Constitutional Amendment # 1: Congress shall make no law . . . or prohibiting the free exercise thereof; . . .

Constitutional Amendment # 1: Congress shall make no law . . . abridging the freedom of speech . . .

Constitutional Amendment # 1: Congress shall make no law . . . abridging . . . to petition the Government for a redress of grievances.

Constitutional Amendment # 4: The right of the people to be secure in their persons, . . . , against unreasonable searches and seizures, shall not be violated.

Constitutional Amendment # 4: The right of the people to be secure in their . . . effects, against unreasonable searches and seizures, shall not be violated, . . .

Constitutional Amendment # 4: The right of the people to be secure in their persons, . . . , and effects, against unreasonable searches and seizures, shall not be violated, . . . but upon probable cause . .

Constitutional Amendment # 4: . . . and particularly describing the place to be searched, and the persons or things to be seized.

Constitutional Amendment # 5: No person shall be held to answer . . . or otherwise infamous crime . . . without due process of law . . ., without just compensation.

Constitutional Amendment # 5: No person shall be held to answer . . . or otherwise infamous crime . . ., . . . nor shall be compelled in any criminal case to be a witness against himself, . . ., without just compensation.

Constitutional Amendment # 5: No person shall be held to answer . . . or otherwise infamous crime . . ., nor be deprived of life, liberty, or property, without due process of law . . ., without just compensation.

Constitutional Amendment # 6: In all criminal trials, the accused shall enjoy the right . . .; . . . by an impartial . .

Constitutional Amendment # 6: In all criminal trials, the accused shall enjoy the right . . . to be informed of the nature and the cause of the accusation . .

Constitutional Amendment # 6: In all criminal trials, the accused shall enjoy the right . . .; to be confronted with the witnesses against him; . . .

Constitutional Amendment # 6: In all criminal trials, the accused shall enjoy the right . . .; to have compulsory process for obtaining witnesses in his favor, . . .

Constitutional Amendment # 7: Trial by jury in civil cases. In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.

Constitutional Amendment # 8: . . . nor cruel and unusual punishments inflicted.

Constitutional Amendment # 9: The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

Constitutional Amendment # 14, Section 1: All persons born . . . in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Constitutional Amendment # 14, Sec. 5:
The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

Fed.R.CIv.P. # 24 (c) Procedure: . . . When the constitutionality of any statute of a State affecting the public interest is drawn into question in any action . . . (((Petitioner's Note - 'As Applied' in the present case))) . . . should call the attention of the court to its consequential duty, but the failure to do so is not a waiver of any constitutional right otherwise timely asserted.

FRAP 28 (j) Citation of Supplemental Authorities. When pertinent and significant authorities come to the attention of a party after the party's brief has been filed, or after oral argument but before

decision, a party may promptly advise the clerk of the court, by letter, with a copy to all counsel, setting forth the citations. There shall be a reference either to the page of the brief or to a point argued orally to which the citations pertain, but the letter shall without argument state the reasons for the supplemental citations. Any response shall be made promptly and shall be similarly limited. ((Petitioner's Note - see also converse of Fed.R.Evid. # 201 and/or; in comportance with ipso facto relevance and other Fed.R.Evid.)))

42 U.S.C. § 1983: Every person who, under color of any statute, regulation, custom, or usage, of any State or Territory or District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the

jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress . . .

42 U.S.C. § 1988: The jurisdiction in civil and criminal matters conferred on the district courts by the provisions of this Title, and of the Title "CIVIL RIGHTS," and of Title "CRIMES," for the protection of all persons in the United States in their civil rights, and for their vindication, shall be exercised and enforced in conformity with the laws of the United States, so far as such laws are suitable to carry the same into effect; but in all cases where they are not adapted to the object, or are deficient in the provisions necessary to furnish

suitable remedies and punish offenses against the law, the common law, as modified and changed by the constitution and the statutes of the State wherein the court having jurisdiction of such civil or criminal cause is held, so far as the same is not inconsistent with the Constitution and laws of the United States, shall be extended to and govern the said courts in the trial and disposition of the cause, and, if is it of a criminal nature, in the infliction of punishment on the party found guilty. In any action or proceeding to enforce a provision of sections 1977, 1978, 1980, and 1981 of the Revised Statutes [42 U.S.C.S. §§ 1981-1983, 1985, 1986], . . . the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs.